

1 SILVANO B. MARCHESI (SBN 42965)
County Counsel
2 JANET L. HOLMES (SBN 107639)
Deputy County Counsel
3 COUNTY OF CONTRA COSTA
651 Pine Street, 9th Floor
4 Martinez, California 94553
Telephone: (925) 335-1800
5 Facsimile: (925) 335-1866
email: jholm@cc.cccounty.us

6 Attorneys for Defendant
7 CONTRA COSTA COUNTY

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
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13 C. ROBERT PETTIT, M.D.,

14 Plaintiff,

15 v.

16 CONTRA COSTA MEDICAL SERVICES
17 REGIONAL MEDICAL CENTER and
DOES ONE THROUGH TWENTY,
18 Inclusive,

19 Defendants.

No. C 07 3358 JSW

PROPOSED ORDER ON DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

20 Defendant Contra Costa County moved for summary judgment or in the alternative
21 partial summary judgment.

22 Dr. Robert Pettit alleges six causes of action: (1) wrongful termination (Cal. Gov't.
23 Code §12940, et seq., Cal. Civ. Code §3287); (2) breach of contract; (3) violation of whistle-
24 blower statute (Cal. Labor Code §1102.5); (4) violation of public policy (pretext in hiring)
25 (Cal. Labor Code §1102.5); (5) breach of the covenant of good faith and fair dealing; and (6)
26 age discrimination (asserted under both federal and California law). The sixth case of action
27 for age discrimination cause of action is the only cause of action asserted under federal law;
28 and six causes of action are brought solely under California law.

1 Under the Age Discrimination in Employment Act ("ADEA"), it is "unlawful for an
2 employer ... to fail or refuse to hire or to discharge any individual or otherwise discriminate
3 against any individual with respect to his compensation, terms, conditions, or privileges of
4 employment, because of such individual's age." 29 U.S.C. § 623(a)(1). Plaintiff has failed to
5 demonstrate any "direct evidence" of age discrimination. Plaintiff also has failed to
6 demonstrate he was treated differently than other, younger doctors, as required under a
7 disparate treatment analysis. Therefore, plaintiff's age discrimination claim under ADEA fails
8 as a matter of law and must be dismissed.

9 Because plaintiff's lone federal law cause of action must be dismissed, the court
10 declines to exercise supplemental jurisdiction of the remaining six state law causes of action,
11 and they are dismissed without prejudice to refile in state court. *See* 28 U.S.C. §1367(c)(3);
12 *Carnegie-Mellon University v. Cohill*, 484 U.S. 343, 350 n.7 (1988).

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14 DATED:

UNITED STATE DISTRICT COURT

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17 By: _____
18 JEFFREY S. WHITE
19 DISTRICT COURT JUDGE
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